

UNITED STATES DISTRICT COURT
for the
Eastern District of Michigan

United States of America

v.

Tomas GAYTAN-MARTINEZ

Case No.

Case: 2:23-mj-30287

Assigned To : Unassigned

Assign. Date : 7/12/2023

CMP: USA v GAYTAN-MARTINEZ (MAW)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 10, 2023 in the county of Wayne in the
Eastern District of Michigan, the defendant(s) violated:

Code Section

Title 8 U.S.C. Section 1326(a),(b)(1)

Offense Description

Unlawful Reentry Following Removal From the United States

This criminal complaint is based on these facts:

On or about July 10, 2023, in the Eastern District of Michigan, Southern Division, Tomas GAYTAN-MARTINEZ, an alien from Mexico, and who had previously been convicted of a felony offense, was found in the United States after having been denied admission, excluded, deported, and removed therefrom on or about August 8, 2017, at or near El Paso, Texas and not having obtained the express consent of the Attorney General of the United States or the Secretary of Homeland Security to re-apply for admission thereto: in violation of Title 8, United States Code, Section 1326 (a), (b)(1).

☒ Continued on the attached sheet.

Sworn to before me and signed in my presence
and/or by reliable electronic means.

Date: July 12, 2023

City and state: Detroit, MI


Complainant's signature

Ryan Medina Border Patrol Agent

Printed name and title


Judge's signature

Elizabeth Stafford, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT

I, Ryan Medina, declare the following under penalty of perjury:

1. I am a Border Patrol Agent employed with the United States Department of Homeland Security, having served with Border Patrol since June 2009. The facts set forth herein are based upon my personal knowledge as well as information provided by other law enforcement officers and record checks of law enforcement databases. I have also reviewed relevant immigration records and system automated data relating to Tomas GAYTAN-MARTINEZ, which reveal the following:
2. Tomas GAYTAN-MARTINEZ is a 41-year-old citizen and native of Mexico, who last entered the United States on May 25, 2022, without inspection by the U.S. Department of Homeland Security.
3. GAYTAN-MARTNEZ has been removed from the United States to Mexico by Immigration Authorities on numerous occasions including the following:
 - 5/31/1998, Voluntary Returned to Mexico from Del Rio, Texas.
 - 1/23/1999, Voluntary Returned to Mexico from Yuma, Arizona.
 - 1/24/1999, Voluntary Returned to Mexico from Brownfield, California.
 - 2/22/2000, Voluntary Returned to Mexico from Eagle Pass, Texas.
 - 2/24/2000, Voluntary Returned to Mexico from Eagle Pass, Texas.
 - 2/27/2001, Voluntary Returned to Mexico from Deming, New Mexico.
 - 2/28/2001, Voluntary Returned to Mexico from Deming, New Mexico.
 - 3/2/2001, Voluntary Returned to Mexico from Deming, New Mexico.
 - 3/2/2001, Voluntary Returned to Mexico from Deming, New Mexico.
 - 3/18/2004, Voluntary Returned to Mexico from Deming, New Mexico.
 - 3/21/2004, Voluntary Returned to Mexico from Deming, New Mexico.

4. On August 4, 2005, GAYTAN-MARTINEZ was served with an I-862 by Immigration Enforcement Agents in the Eden Detention Center in Eden, Texas. On September 20, 2005, GAYTAN-MARTINEZ was ordered deported by an Immigration Judge in Dallas, Texas. On September 30, 2005, GAYTAN-MARTINEZ was removed from the United States to Mexico via Del Rio, Texas.

5. On April 13, 2005, GAYTAN-MARTINEZ was convicted in the U.S. District Court, Northern District of Texas for a violation of Title 8, United States Code §1325, Illegal Entry into the United States. He was sentenced to 179 days' imprisonment.

6. On December 24, 2016, GAYTAN-MARTINEZ was arrested by the Oakland County Sheriff's Department for Operating Under the Influence of Alcohol. He was released to ICE pending investigation.

7. On December 27, 2016, ERO-Detroit arrested GAYTAN-MARTINEZ and served him an I-871 Notice of Intent to Reinstate Prior Order. On or about May 10, 2017, GAYTAN-MARTINEZ was convicted in the Eastern District of Michigan of Unlawful Reentry Following removal, in violation of 8 U.S.C. §1326 and was sentenced to six months custody, one-year supervised release, *United States v Tomas Gaytan-Martinez*, EDM Case No. 17-cr-20063. He was removed from the United States on August 8, 2017.

8. On July 10, 2023, CBP-Gibraltar Station was contacted by Michigan State Police (MSP) Officers concerning several individuals they had stopped in a work truck at the MSP Truck scales on southbound I-75. The officers needed help with identification of the subjects, because they were unable to provide identification. GAYTAN-MARTINEZ was one of the individuals in the truck.

9. After arriving at the location, Border Patrol Agents (BPA) questioned the individuals as to their immigration status. All five individuals, including GAYTAN-MARTINEZ, admitted to being illegally present in the United States. Subsequent immigration record checks confirmed that none of the individuals had legal status in the United States. Agents then transported the subjects to the Gibraltar Station for processing.

10. The aforementioned arrest and subsequent detention was an administrative, non-criminal action made pursuant to the authority found in sections 1357, 1225, 1226, and/or 1231 of Title 8, United States Code to arrest and detain any non-

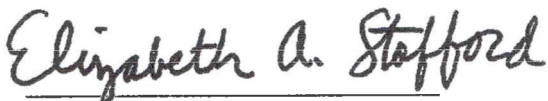
citizen entering or attempting to enter the United States, or any non-citizen present in the United States, who is reasonably believed to be in violation of any law or regulation regulating the admission, exclusion, expulsion, or removal of noncitizens.

11. A review of immigration records (A #XXX XXX 394) for Tomas GAYTAN-MARTINEZ and queries in U.S. Department of Homeland Security databases reveal that no record exists of GAYTAN-MARTINEZ obtaining permission from the Attorney General or the Secretary of the Department of Homeland Security to re-apply for admission to the United States following his removal from the United States on or about August 8, 2017.

12. Based on the above information, there is probable cause to believe that, on or about July 10, 2023, in the Eastern District of Michigan, Southern Division, Tomas GAYTAN-MARTINEZ, an alien, who had previously been convicted of a felony offense, was found in the United States after having been denied admission, excluded, deported, and removed therefrom on or about August 8, 2017, and not having obtained the express consent of the Attorney General of the United States or the Secretary of Homeland Security to re-apply for admission thereto; all in violation of Title 8, United States Code, Section 1326(a), (b)(1).


Ryan Medina
Border Patrol Agent

Sworn to before me and signed in my
presence and/or by reliable electronic means.


Elizabeth Stafford
U.S. Magistrate Judge